

NOTICE TO ATTORNEYS

RE: CHIEF JUDGE BIHARY'S NEW Open Calendar Procedures

In addition to using open calendar procedures for Motions for Relief from the Automatic Stay, Judge Bihary is also adopting the [Open Calendar Procedures](#), effective **July 1, 2004**, to allow attorneys to schedule hearings (with certain exceptions listed under Case Management Procedures) in Chapter 7 and Chapter 13 bankruptcy cases. Attorneys must prepare, file, and serve a notice of hearing with every motion requiring a hearing.

Instructions for the new self-selecting hearing dates and times will be posted on the Court's website on **June 1, 2004**.

The Internet address is: <http://www.ganb.uscourts.gov>

Click on Chambers, then Chief Judge Bihary, then Case Management Procedures and Open Calendar Procedures.

CASE MANAGEMENT PROCEDURES

I. THE FOLLOWING TYPES OF MOTIONS/APPLICATIONS DO NOT TYPICALLY REQUIRE A HEARING. PLEASE PROMPTLY SUBMIT ORDERS TO CHAMBERS.

Please note: All Chapter 13 orders with the exception of orders on Default Motions and Orders on Motions for Ex Parte Relief from Stay under BLR 4001, N.D.Ga. (uninsured vehicle) must be signed by the Chapter 13 Trustee before submission to Chambers.

- Motions/Applications to Employ Professionals, Special Counsel.
- Motions to Suspend Payments in Chapter 13 Cases.
- Motions to Extend Time to File Schedules, etc.
- Motions to Vacate or Terminate EDO Order.
- Motions to Withdraw as Counsel OR Substitution of Counsel.
- Motions to Take Bankruptcy Rule 2004 Examination.
- Motions for Ex-Parte Relief from Stay. (Please see BLR 4001, N.D.Ga. [related to insurance on vehicles, boats, airplanes])
- Motions to Dismiss a Duplicate Case through Inadvertent Filing of Petition.
- Motions in Chapter 11 cases to Set Bar Dates to file Proof of Claims.

II. EXCEPTIONS: HEARINGS ON THE FOLLOWING MOTIONS/APPLICATIONS MAY NOT BE SET BY USING THE OPEN CALENDAR PROCEDURES. PLEASE BRING OR SEND A COPY OF THE FILED MOTION WITH ORIGINAL NOTICE OF HEARING TO JANETTE WASHINGTON, COURTROOM DEPUTY CLERK, TO OBTAIN THE DATE AND TIME OF THE HEARING. IT WILL BE YOUR RESPONSIBILITY TO SERVE THE NOTICE OF HEARING ON ALL INTERESTED PARTIES IN THE MOST EXPEDITIOUS MANNER POSSIBLE AND FILE A CERTIFICATE OF SERVICE PRIOR TO THE HEARING.

- Any motions in adversary proceedings.
- Any matters in Chapter 11 cases other than motions for relief from stay expected to take less than 15 minutes.
- Hearings on any matters that will take more than 15 minutes.
- Any Emergency motions or requests for expedited hearings or for shortened time.
- Motions to Reimpose the Automatic Stay.
- Contested matters that require evidentiary hearings and trials.
- Requests for pre-trial conferences and/or status conferences.
- Motions to avoid lien and Motions to Redeem (Court will Schedule hearings if Responses are filed).
- Motions for valuation of collateral.

- Whether filed on paper or electronically, the certificate of service must mention service of both the motion and the notice of hearing.
- If you file paper pleadings, deliver a copy of the notice of hearing and certificate of service to Chambers at least two (2) weeks prior to the hearing date.
- If you file electronically, do **not** deliver a paper copy to the Clerk or to Chambers.

4. There is no need to call Chambers to find out if your motion has been put on the calendar. You may view the calendar online in the CM/ECF system, which you may access through **PACER**, even if you do not file electronically.

5. Reset Hearings – You may use the Open Calendar Procedure to reset a hearing on a motion for relief from stay **if all parties agree**, but you must follow the above instructions on filing the Notice of Hearing. If all parties do not agree, continuances should be requested by motion.

OPEN CALENDAR PROCEDURES
Instructions for Self-Selecting Hearing Dates and Times for
Motions/Applications Other Than Motions for Relief from Stay in Cases Assigned to
Chief Judge Bihary

1. The open calendar procedure applies to attorneys who file motions/applications in Chapter 7 and Chapter 13 cases (see exceptions listed under Case Management Procedures). Judge Bihary has previously adopted self-calendaring for motions for relief from the automatic stay ([click here](#)) and Judge Bihary is adopting the open calendar procedures for other types of motions/applications for certain calendars beginning **July 1, 2004**. This is not an interactive website. You cannot set a hearing from this website.

2. From the list of currently available dates, select date, time, and appropriate location (Atlanta) on which you want your motion/application to be heard. Available open calendar dates are listed at the end of these instructions. There is nothing to do on this website except to find an appropriate date, time, and location for the hearing you want to schedule. If you file electronically, you will be prompted on one screen to insert the date, time, and location you selected, and then you must fill in the date, time, and place on the hearing information screen. (Make sure you fill in all three fields). **Hearings for Atlanta cases before Chief Judge Bihary are in Courtroom 1402, 75 Spring Street, SW, Atlanta, GA.** On the screen permitting the user to enhance docket text, type in the words “and Notice of Hearing” after the description of your pleading. Make sure the notice of hearing is included as part of the PDF document but it should follow the motion, even though when you serve the motion you may attach the notice of hearing to the front of the motion. If you file on paper, you simply insert the date, time, and location in the notice of hearing that you will serve with your motion. Whether filed on paper or electronically, the certificate of service must mention service of both the motion and the notice of hearing.

3. Prepare the Notice of Hearing into which you will insert the date, time, and location that you selected from the list of available dates. Combine the notice with the motion, brief, if any, and certificate of service in one document, which, if you file electronically, will be filed as a Motion Event. Click here for suggested [form of notices and certificate of service](#). (Atlanta). (These are PDF documents).

4. With respect to all motions filed on the open calendar, make sure they are filed timely and served with sufficient notice of same as required by Bankruptcy Code, Rules and Official Forms (e.g. Objection to Proof of claim requires a thirty-three (33) days notice time).

Hearings set that do not meet the notice requirements of the Bankruptcy Code and/or Rules with respect to length of time of notice WILL NOT BE HEARD. (Please also see instructions for setting hearings on Motions for Relief.)

5. **There is no need to call Chambers to find out if your motion has been put on the calendar.** You may review the calendar in the CM/ECF system, which you may access through PACER, even if you do not file electronically.

6. **RESETS:** You may use the Open Calendar Procedure to reset a hearing date only if all parties agree.

7. **This procedure may not be used by non-attorneys. All pro se pleadings will be reviewed and hearings, if appropriate, will be scheduled by the Courtroom Deputy.**

(IF THE MOTION IS FOR RELIEF FROM STAY, COUNSEL IS REQUIRED TO ADD THIS STATEMENT) If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Dated: ***[DATE]***

SIGNATURE

[NAME OF COUNSEL]

Counsel for Movant

[ADDRESS, TELEPHONE, BAR NO.]

Certificate of Service

I, ***[name of person serving pleadings]***, certify that I am over the age of 18 and that on ***[DATE]***, I served a copy of the foregoing ***Motion for Relief from Stay and Notice of Hearing*** by first class U.S. Mail, with adequate postage prepaid on the following persons or entities at the addresses stated:

State name and address of each person or entity to which copies were mailed. READ AND COMPLY WITH BANKRUPTCY RULE 7004 CONCERNING HOW TO EFFECT PROPER SERVICE.]

Dated: ***[DATE]***

Signature of Person Serving Pleadings

[Name and Address of person serving pleadings]